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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,363	10/27/1999	FREDERICK MURRAY BURG	113571	4560

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EXAMINER

LIN, KENNY S

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/428,363	BURG ET AL.	
	Examiner	Art Unit	
	Kenny Lin	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 1999.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other:  |

1. Claims 1-23 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The current title is imprecise.
3. It is noted that although the present application does not contain line numbers in the claims. The preferred format is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the Examiner and Applicant all future correspondence should include the recommended line numbering.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-5, 10-16 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barkan et al, U.S. Patent Number 6,366,575, in view of Uppaluru et al, U.S. Patent Number 6,011,844.
6. As per claims 1 and 13, Barkan et al taught the invention as claimed including a method/apparatus for setting up a call between a subscriber premises and a call center (fig. 1, col.1, lines 18-20) comprising:

- a. Receiving a call set up request responsive to the subscriber premises (col.1, lines 18-29);
- b. Sending a query to the call center (col.5, lines 26-39);
- c. Receiving an availability reply from the call center (col.5, lines 59-66); and
- d. Preparing a call set up instruction for setting up the call between the subscriber premises and the call center (col.6, lines 6-19).

7. Barkan et al did not specifically teach that a gateway is used in setting up a call.

However, Uppaluru et al taught a system having a gateway to provide call set up request to the subscriber (col.2, lines 36-67, col.3, lines 17-20, col.4, lines 19-21, 30-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Barkan et al and Uppaluru et al because Uppaluru et al's use of a gateway in a system such as Barkan et al's system to allow call interceptions, identification, and call queuing and also to enable connections with different types of network environments.

8. As per claims 2 and 14, Barkan et al further taught that a call path between subscriber premises and the call center is provided (col.6, lines 33-45).

9. As per claims 4 and 15, Barkan et al further taught that a call to the subscriber premises is placed when providing the call path (col.6, lines 33-45).

10. As per claims 5 and 16, Barkan et al further taught that a call to the call center is placed when providing the call path (col.6, lines 33-45).
11. As per claims 10 and 21, Barkan et al further taught that the subscriber premises includes a computer and a telephone for communication with the call center (Barkan et al, figs.1-3, col.1, lines 18-29).
12. Barkan et al did not specifically teach that a gateway is used for communication with the computer. However, as for the reasons set forth in claim 1, Uppaluru et al taught the use of gateways (Uppaluru et al, fig.3, col.2, lines 36-67, col.3, lines 17-20, col.4, lines 19-21, 30-59).
13. As per claims 11-12 and 22-23, Barkan et al further taught the preparation of a call connection message related to the call being set up between the subscriber premises and the call center and sending the call connection message for delivery to the subscriber premises (col.6, lines 33-60, Uppaluru et al, col.4, lines 30-59).
14. Barkan et al failed to teach that the call connection message is sent to the gateway. However, as for the reasons set forth in claim 1, Uppaluru et al taught the use of gateways (Uppaluru et al, fig.3, col.2, lines 36-67, col.3, lines 17-20, col.4, lines 19-21, 30-59).

15. As per claim 3, Barkan et al taught the invention substantially as claimed in claims 1-2 including that the call path is provided in response to the call set up instruction (col.6, lines 33-35).

16. Barkan et al did not specifically teach that the call path is provided by a network switch. However, Uppaluru et al further taught that network switch may be included in the network to provide call paths (col.1, lines 27-33, fig.2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Barkan et al and Uppaluru et al because Uppaluru et al's teaching of including a switch in the network enables Barkan et al's system to receive and originate calls.

17. Claims 6-9 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barkan et al, U.S. Patent Number 6,366,575, and Uppaluru et al, U.S. Patent Number 6,011,844, further in view of Morganstein et al, U.S. Patent Number Re. 37,001.

18. As per claims 6 and 17, Barkan et al and Uppaluru et al taught the invention substantially as claimed in claim 1 including receiving the availability reply (Barkan et al, col.3, lines 61-67, col.5, lines 59-63), estimating the time-in-queue (Barkan et al, col.5, lines 15-20) until the call center will be available to receive the call and preparing a call queue status message (Barkan et al, col.5, lines 27-37, line 53 to col.6, line 19) for delivery to the gateway (Uppaluru et al, col.4, lines 30-59).

19. Barkan et al and Uppaluru et al did not specifically teach the reception of an unavailability reply from the call center. However, Morganstein et al taught the reception and use of unavailability replies (col.4, lines 63-67, col.6, lines 2-13) in their disclosure. Furthermore, Morganstein et al also taught to estimate the time-in-queue (col.5, lines 18-20) and prepare a call queue status message (col.5, lines 26-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Barkan et al, Uppaluru et al and Morganstein et al because Morganstein et al's use of an unavailability reply helps Barkan et al and Uppaluru et al's system from overloading the queues and incoming traffic and further provide the customers with alternate services.
20. As per claims 7 and 18, Barkan et al and Morganstein et al further taught to send the call queue status message for delivery to the subscriber premises (Barkan et al, col.6, lines 6-14, Morganstein, col.5, line 26-39).
21. Barkan et al and Morganstein et al did not specifically teach that the call queue status message is sent to the gateway. However, as for the same reason set forth in claim 1, Uppaluru taught the use of gateways (Uppaluru et al, fig.3, col.2, lines 36-67, col.3, lines 17-20, col.4, lines 19-21, 30-59).
22. As per claims 8 and 19, Barkan et al and Morganstein et al further taught to include the reception of an agent available notice from the call center (Barkan et al, col.5 line 59 to col.6 line

19) and preparation of an updated call queue status message (Barkan et al, col.5, lines 27-37, line 53 to col.6, line 26, Morganstein, col.5, lines 24-25).

23. Barkan et al and Morganstein et al did not specifically teach that the message is for delivery to the gateway. However, as for the reasons set forth in claim 1, Uppaluru et al taught the use of gateways (Uppaluru et al, fig.3, col.2, lines 36-67, col.3, lines 17-20, col.4, lines 19-21, 30-59).

24. As per claims 9 and 20, Barkan et al and Morganstein et al further taught the preparation of an updated call queue status message (Barkan et al, col.5, lines 27-37, line 53 to col.6, line 26, Morganstein, col.5, lines 24-25) for delivery after receiving the availability reply.

25. Barkan et al and Morganstein et al did not specifically teach that the message is for delivery to the gateway. However, as for the reasons set forth in claim 1, Uppaluru et al taught the use of gateways (Uppaluru et al, fig.3, col.2, lines 36-67, col.3, lines 17-20, col.4, lines 19-21, 30-59).

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miloslavsky, A., U.S. Patent Number 6,130,933, disclosed telephone and data communication system.



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27. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703)305-0438. The examiner can normally be reached on 8 AM to 5 PM Tuesday to Friday and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703)305-9678. Additionally, the fax numbers for Group 2100 are as follows:

Official Responses: (703) 746-7239

After Final Responses: (703) 746-7238

Draft Responses: (703) 746-7240

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-5140.

ksl  
July 24, 2002

  
ZARNI MAUNG  
PRIMARY EXAMINER